



# Spotlight on Parliaments in Europe

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## Naturalisation by exception to foreign entrepreneurs and investors and the obligation to publish the names of those that acquire such citizenship

On 1<sup>st</sup> March 2018, the Cypriot House of Representatives submitted a request to the ECPRD (request 3690) concerning naturalisation by exception of foreign investors and entrepreneurs.<sup>1</sup> The request contained two components: firstly, whether a legal framework granting citizenship to foreign entrepreneurs and investors through naturalisation by exception exists, and secondly, following a positive answer to the first question, whether there is a legal obligation to publish the names of those that acquired this type of citizenship. From the 30 replies (equal to 25 of the 28 member states), it seems that the countries possess diverse legislation on this subject. Although the existence of naturalisation by exception of foreign investors and entrepreneurs is rather limited, that does not mean that investors are unable to enjoy particular benefits reserved for them. The present document aims to provide a summary of the responses of the National Parliaments/Chambers.

### I. Limited existence of naturalisation by exception of foreign entrepreneurs and investors, accompanied by a frequent obligation to publish the names of those that acquire such citizenship

The replies received illustrate that from the few member states that possess provisions on this matter, the majority have included citizenship for foreign investors and entrepreneurs as part of the general regime of naturalisation by exception. Usually, this is where applicants have rendered exceptional services (for example, contribution to the arts, science, sport or the economy) to the state, or there is an interest of the member state in granting citizenship. **Malta** is the only state with specific provisions on naturalisation by exception for foreign investors and entrepreneurs. In spite of the different regimes in place, all the countries in this category except **Croatia** and **Austria**, are obliged to publish the names of those naturalised in this manner, in their official journal, gazette or national equivalent.

As abovementioned, the only member state which responded that they have a specific legal framework that permits foreign investors and entrepreneurs to acquire naturalisation by exception, is **Malta**. Pursuant to the Maltese Citizenship Act and its individual investor programme, any applicant, their spouse and eligible dependants, are entitled to naturalisation by exception. The programme requires investors to fulfil certain conditions including donations to the government's foundation and investment into property and bonds.

The remaining states which pertain legal provisions on this matter have incorporated them in their general regimes on naturalisation by exception. In these instances, Member states take a discretionary decision to those individuals that have contributed to various sectors of the state or where there would be interest in permitting naturalisation. As a result, the thresholds to obtaining citizenship in these countries (and, ultimately European Union rights) may be burdensome.

For example, **Estonian** citizenship may be granted "to persons whose achievements are of special merit to the Estonian state." These achievements may contribute to science, culture or sport, or to other areas (including the economy). Likewise, the initial requirement in **Slovenia** is that the applicant must offer scientific, economic, cultural, national or similar benefits to the state. Interestingly, **Austria** is the only state which explicitly refers investment as a possible outstanding achievement that may lead to

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<sup>1</sup> Notably, at the time of the request, the Cypriot House of Representatives expressed that a Member's bill on the subject was under examination/discussion before its Parliamentary Committee on Internal Affairs. Interestingly, Cyprus has a citizenship-by-investment program. See the table on page 3 for more details.

naturalisation by exception, of foreign investors and entrepreneurs. Whereas, in **Slovakia**, naturalisation may only be granted if foreign entrepreneurs and investors represent a significant benefit for the Slovak Republic in the field of economy, science, technology, social affairs, culture or sports, or if granting citizenship is in the interest of the Slovak Republic. By the same token, **Croatia, France, Greece, Portugal** and **Spain** possess distinctive procedures<sup>2</sup> in which nationality is granted on the basis that the applicant has rendered exceptional services to the country, or where naturalisation of the individual presents an exceptional interest for the nation in question.

Consequently, the granting of citizenship to foreign entrepreneurs and investors through naturalisation by exception exists in multiple member states and is commonly accompanied by an obligation to publish the names of those that acquire such citizenship. However, it is important to note that the possibility to exceptionally grant citizenship to foreign investors and entrepreneurs in theory, may have different results in practice.

## **II. Provision of other benefits to foreign investors and entrepreneurs where citizenship is not available to them**

Furthermore, although there is no opportunity of foreign investors and entrepreneurs to naturalise by exception in the majority of the Member states, some have established other means to attract and facilitate the business activities of foreign entrepreneurs and investors.

By way of illustration, many member states have residence permits specifically for investors to conduct their economic activities. Countries such as **Czech Republic, Hungary, Latvia, Netherlands** and **Portugal** offer temporary or permanent residence permits for foreign nationals to, amongst others, make significant investments, manage commercial corporations or conduct their business activities. In addition, **German** residence law grants permits for the purpose of self-employment. Notably (until further notice), the **UK** has visa categories exist for non-EEA national investors and entrepreneurs which can lead to eligibility for permanent residence in the UK after 2 – 5 years' residence (depending on the level of the investment).

Another unique way in which foreign investors and entrepreneurs are able to benefit is through influencing the legal terms for obtaining citizenship. **Romanian** law<sup>3</sup> states that although the foreign citizen must prove permanent residence on the Romanian territory for 8 years in order to obtain citizenship, this term can be reduced. Namely, if the foreign citizen has invested over 1 million euros in the Romanian markets.

Finally, the following member states' legal systems do not contain any provisions concerning naturalisation by exception of foreign investors or entrepreneurs and the obligation to publish the names of those that acquire it: **Belgium**<sup>4</sup>, **Denmark, Finland, Latvia, Luxembourg, Poland** and **Sweden**.

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<sup>2</sup> In Greece, naturalisation is granted via a presidential decree which is issued on the basis of a reasoned proposal by the Minister of the Interior. Similarly, in Croatia, it is necessary for the relevant competent ministry (in this case, the Ministry of Economy, Entrepreneurship and Crafts of the Republic of Croatia), to issue a positive opinion on the existence of such interest. However, in France, naturalisation may only be granted after an opinion of the Conseil d'Etat, triggered by a report of the relevant competent minister, depending on the activity of the applicant.

<sup>3</sup> Article 8(2)(d), Law on Romanian citizenship 21/1991.

<sup>4</sup> One of the chief conditions (found in Article 19 of the Code of Belgian nationality) for naturalisation by exception is to demonstrate extraordinary merits in the field of science, sports or the sociocultural field (not the economy). However, the [Government coalition agreement of 9 October 2014](#) (in French, page 169-70) has expressed the intention of adding economic merits to the exception list.

**Comparative table on naturalisation by exception and the obligation to publish names of those who acquire it**

Member State	Acquisition of citizenship for foreign entrepreneurs & investors	Obligation to publish names of investors & entrepreneurs who acquire it	Naturalisation by exception for another reason	Relevant Law (where available)
Cyprus (requesting State)	✓ <sup>5</sup>	N/A	✗	Although the current legislation does not contain such an obligation, it must be noted that a Member's bill on the subject is under discussion before the House of Representative's Committee on Internal Affairs.
Austria	✓ <sup>6</sup>	✗	✗	§ 10 (6) <a href="#">Federal Law concerning the Austrian Nationality (Nationality Act 1985, last amended in 2017)</a> (in German)
Belgium	✗	✗ <sup>7</sup>	✓	Belgian Constitution, Article 9, <a href="#">Code of Belgian nationality</a> (Articles 19 and 21(6)), Rules of Procedure of the House of Representatives, Rule 121 (publication), <a href="#">Government coalition agreement of 9 October 2014</a> (pg 169-70)
Croatia	✓	✗	✗	Article 12, Croatian Citizenship Act
Czech Republic	✗ <sup>8</sup>	N/A	N/A	Act No. 186/2013 Coll., on Acquiring and Losing Citizenship of the Czech Republic
Denmark	✗	N/A	✗	<a href="#">Constitutional Act of Denmark, Act No. 169 of June 5 1953</a> , § 44
Estonia	✓	✓	✓ <sup>9</sup>	Citizenship Act and Riigi Teataja (Official Gazette)
Finland	✗	N/A	✓ <sup>10</sup>	Chapter 3, <a href="#">Nationality Act</a> (359/2003; amendments up to 974/2007 included)
France	✓	✓ <sup>11</sup>	✓ <sup>12</sup>	Article 21-19 of the Civil Code and article L221-14 of the Code des relations entre le public et l'administration
Germany	✗ <sup>13</sup>	N/A	N/A	Residence Act ( <i>Aufenthaltsgesetz</i> ), Section 21
Greece	✓	✓	✓	Article 13 of L.3284/04 on Greek Citizenship (honorary naturalisation) <sup>14</sup>
Hungary	✗ <sup>15</sup>	N/A	✗	<a href="#">Act LV of 1993 on Hungarian Citizenship, Section 35/A</a>
Latvia	✗	N/A	✗	Law on Citizenship
Lithuania	✗ <sup>16</sup>	N/A	✓ <sup>17</sup>	<a href="#">Law on Citizenship</a> <a href="#">Law on the Legal Status of Aliens</a>
Luxembourg	✗	N/A	✗	-
Malta	✓	✓	✓ <sup>18</sup>	Part V of the <a href="#">Maltese Citizenship Act</a>

<sup>5</sup> Applicants must invest 2 million euros (excluding tax) in, amongst others, real estate or participation in Cypriot business and companies. This investment figure used to be 2.5 Million euros before the revisions to the scheme in September 2016.

<sup>6</sup> Naturalisation by exception can only take place by reason of actual or expected outstanding achievements (especially with regard to science, investments, sports and arts). Direct business investments or joint ventures are required and not real estate or government bonds.

<sup>7</sup> Article 21(6), of the Code of Belgian nationality provides that all certificates of naturalisation are published in the Belgian Official Gazette.

<sup>8</sup> Since 15<sup>th</sup> August 2017, it is possible to obtain long-term residence for more than 90 days in case of investment.

<sup>9</sup> Awarded to those with achievements of special merit to the Estonian state. These may be achievements in the area of science, culture, sports or in other areas (such as investment).

<sup>10</sup> Specific exceptions that grant Finnish national relate to administrative difficulties or medical justifications for inability to comply with residence or language test conditions. Cf. Section 18 of the Nationality Act.

<sup>11</sup> In order to protect the right to a private family life of those that have been naturalised in this manner, Article L221-14 in the « Code des relations entre le public et administration », which came into effect in January 2016 asserts that information relating to the state and nationality of persons can only be decreed by the Conseil d'Etat after they have had the opinion of the National Commission of computing and freedoms.

<sup>12</sup> Specific exceptions in which French nationality can be obtained without adhering to the time conditions are: political refugee status, mission in the Legion abroad, completion of school studies in a francophone establishment abroad and exceptional services completed in France.

<sup>13</sup> Residency permits for self-employment of up to three years are available. One of the criteria for the decision is the level of capital investment.

<sup>14</sup> Honorary naturalization occurs by a Presidential Decree, issued on a reasoned proposal by the Minister of the Interior.

<sup>15</sup> In exceptional cases, third country nationals (such as foreign investors or entrepreneurs) may be given a national permanent residence permit by the minister of immigration, who may consider economic aspects of the case. Qualifying activities may include investment of at least 300,000 euros in securities and at least 50,000 euros on Government-owned bonds, for a minimum period of 5 years.

<sup>16</sup> Temporary residence permits may be issued for foreigners on the grounds related with their investment and business activities.

<sup>17</sup> The President of Lithuania may grant Lithuanian citizenship by way of exception to foreigners for their outstanding merits to Lithuania and only to those who have integrated into the Lithuanian society. In recent years, cases of granting of Lithuanian citizenship by way of exception were extremely rare and not related with merits of economic nature.

				Article 14(2) of <a href="#">Legal Notice 47 of 2014</a> . Individual Investor Programme of the Republic of Malta Regulations, 2014
Netherlands	✗ <sup>19</sup>	N/A	N/A	-
Poland	✗	N/A	✗	-
Portugal	✗ <sup>20</sup>	✓ <sup>21</sup>	N/A	<a href="#">Residence Permit for Investment</a>
Romania	✗	N/A	N/A	Law on Romanian citizenship 21/1991, Article 8(2)(d)
Slovakia	✓	N/A	✓	Act of the National Council. 40/1993 Coll. on nationality of the Slovak Republic
Slovenia	✓	✓	✓	Citizenship of the Republic of Slovenia Act, Article 13. Publication duty subject to: Personal Data Protection Act & Access to Public Information Act
Spain	✓ <sup>22</sup>	✓	✓	Article 21 of the Spanish Civil Code Act 14/2013 on Residence Visas
Sweden	✗	N/A	✗	-
UK	✗	N/A	✗	-

<sup>18</sup> Any spouse of any Maltese citizen or foreign national who has rendered exceptional services to the Republic of Malta or to humanity, or whose naturalisation is of exceptional interest to the Republic of Malta. Exceptional refers primarily to manifestly superior contributions by scientists, researchers, athletes, artists and cultural performers.

<sup>19</sup> Foreign investors may apply for a residence permit if they make a substantial investment (at least 1.25 million euros) in the Dutch economy which either: adds innovation to the industry, invests in real estate or the investor brings a high value personal network or specific knowledge.

<sup>20</sup> Foreign investors or entrepreneurs may apply for a [Residence Permit for Investment](#) ("Golden Visa") in order to conduct their business activities. All third country citizens may apply and complete one of the following tasks: capital transfer of 1 million Euros or more, creation of at least 10 jobs, purchase real estate worth 500, 000 Euros or more, capital transfer of 350,000 euros for scientific research or capital transfer of 250,000 euros in order to support the arts.

<sup>21</sup> Portuguese citizenship can also be granted to a foreign national on the ground that he or she has offered Portugal exceptional services.

<sup>22</sup> Spanish citizenship is granted discretionally when exceptional circumstances concur in the interested person. This general rule could apply to foreign investors.